

In re Appln. of Holub
Application No. 10/626,135

REMARKS

Reconsideration of the application is respectfully requested. An Office action, dated June 14, 2005 is presently pending in the application. Claims 1, 3, 6, and 11 have been amended and Claims 16 and 17 have been added; therefore, Claims 1-17 are pending in the application.

The Election of Species

Applicant hereby confirms the election of the invention of FIG. 2b, Claims 1-9 and 11-14. Applicant understands that Claims 10 and 15 will be considered upon the allowance of a generic claim. This election is made without traverse.

The Objection to the Specification

A comment was made in the Office action regarding underlining of the section headings in the application and the title of the application. Although 37 C.F.R. § 1.77(b) and (c) state that the section headings should be in uppercase without underlining or bold type, the guidelines in that section of the C.F.R. are just that: guidelines. These are not requirements, but instead are preferable. The undersigned and his law firm did not prepare and file this application, but will keep in mind these guidelines in the future.

The § 102 Rejections of Claims 1-9 and 11-14 in View of Girard

Claims 1-9 and 11-14 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Number 6,412,748 to Girard. Applicant submits that the amended claims define around the structure shown in *Girard*.

For the sake of clarity, the independent claims of the application are discussed in this and the other section 102 rejection. Applicants submit that the independent claims are allowable, and therefore the dependent claims are allowable at least because they are dependent upon allowed

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claims. Nevertheless, Applicants submit that the dependent claims further define subject matter not shown or made obvious by the prior art.

Amended Claim 1 is directed to a ground stake having, *inter alia*, a short vane that depends outward from the shaft and the majority of which is situated between the penetration end of the ground stake and a mid point of the ground stake. This positioning of the short vane is preferable, as is described in Paragraph 29 of the application. *Girard* does not teach such a location of a short vane; therefore, Applicant submits that the rejection of Claim 1 in view of *Girard* should be withdrawn.

Claim 11 is directed to a ground stake having, *inter alia*, a short vane having an insertion leading edge defining an insertion angle of attack, and an extraction leading edge defining an extraction angle of attack. Amended Claim 11 includes the requirement that the extraction leading edge be less than ninety degrees (90°). This arrangement is important, because it allows a cutting edge for extraction of the short vane from the ground, whereas an edge that is ninety degrees does not provide such an attack angle. *Girard* includes a member 16 that is described in the Office action as being "approximately ninety degrees." This does not meet the requirements that the extraction angle of attack be less than ninety degrees. For at least this reason, the rejection of Claim 11 should be withdrawn.

The § 102 Rejections in View of Schwartz

Claims 1-6 and 11 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Number 6,401,403 to Schwartz. This rejection is respectfully traversed.

As with *Girard*, *Schwartz* discloses a stake in which the vane is located primarily at a top portion of the stake, and thus the requirements of amended Claim 1 are not met. For at least this reason, the rejection of Claim 1 in view of *Schwartz* should be withdrawn.

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In *Shwartz*, like *Girard*, the extraction leading edges are at ninety degrees to the shaft access. Thus, *Schwartz* does not meet the requirements of Claim 11, wherein the extraction angle of attack is less than ninety degrees. For at least this reason, the rejection of Claim 11 in view of *Schwartz* should be with drawn.

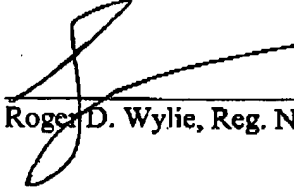
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CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that Claims 1-17 define patentable subject matter, and that the application is in good and proper condition for allowance. Such action is respectfully solicited.

If the foregoing does not result in a Notice of Allowance in the application, Applicants earnestly solicit the Examiner to call the undersigned at 206-521-5984.

Respectfully submitted,



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